REMARKS

Claims 1-27 are pending in the application. Favorable reconsideration in light of the enclosed Rule 132 Declaration and the remarks which follow is respectfully requested.

The Amendments and Allowable Subject Matter

The Examiner's indication that claims 4-15, 18, 19, 21, 22, 24, 25, and 27 contain allowable subject matter is noted with appreciation.

The Indefiniteness Rejection

Claims 3-8, 11, 12, and 16-27 have been rejected under 35 U.S.C. § 112, second paragraph, with regard to the words major and minor. The terms "major amount" and "minor amount" are clearly defined in the specification at page 14, lines 12 and 13. Since the terms are clearly defined with objective parameters, they are not relative terms. One skilled in the art would readily know the metes and bounds of these terms based on the specification.

The CAS Registry Novelty Rejection

Claims 1 and 2 have been rejected under 35 U.S.C. § 102(b) over CAS Registry Database compound #250639-69-1 which shows a chemical structural formula similar to the compound of claim 1 and described as 1-naphthalenesulfonic acid, 2-[(2-hydroxy-6-sulfo-1-naphthalenyl)azo] strontium salt.

To establish anticipation, each and every claim feature must be disclosed in a single cited art document. Claims 1 and 2 require a compound that exhibits an X-ray diffraction pattern comprising high diffraction intensities at diffraction angles of about 10.4°, about 17.5°, about 18.7°, about 21.6° and about 23°; moderate diffraction intensities at about 14.4°, about 15°, about 24.4°, about 24.8°, about 25.2° and about 26.2°; and low diffraction intensities at about 15.4°, about 17.5°, about 17.8°, about 19.3°, about 20°, about 21°, about 21.8°, about 26.6°, about 28.6°, about 30.2°, about

31.6°, about 32.1°, about 34.8° and about 38°. The CAS Registry fails to disclose a compound that exhibits an X-ray diffraction pattern comprising high diffraction intensities at diffraction angles of about 10.4°, about 17.5°, about 18.7°, about 21.6° and about 23°; moderate diffraction intensities at about 14.4°, about 15°, about 24.4°, about 24.8°, about 25.2° and about 26.2°; and low diffraction intensities at about 15.4°, about 17.5°, about 17.8°, about 19.3°, about 20°, about 21°, about 21.8°, about 26.6°, about 28.6°, about 30.2°, about 31.6°, about 32.1°, about 34.8° and about 38°. Since the CAS Registry compound does not disclose all of the claimed features, the CAS Registry compound cannot anticipate claims 1 and 2.

Further in support of this fact is an enclosed Rule 132 Declaration. The Rule 132 Declaration demonstrates that 1-naphthalenesulfonic acid, 2-[(2-hydroxy-6-sulfo-1-naphthalenyl)azo] strontium salt of the CAS Registry is clearly different from the compound of claim 1. The difference is two-fold: physical structure and physical properties.

Although the compound of claim 1 and CAS Registry have the same chemical structure, the difference in physical structure is based on the crystal structure (or lack of crystal structure). The compound of claim 1 is a crystalline material that exhibits a characteristic X-ray diffraction data. The CAS Registry compound is non-crystalline or poorly crystalline and does not exhibit the required and claimed X-ray diffraction data. The enclosed Rule 132 Declaration reports the X-ray diffraction data of both compounds. The difference in the X-ray diffraction data is the basis, in part, for the novelty of the claimed compound. That is, by claiming 1-naphthalenesulfonic acid, 2-[(2-hydroxy-6-sulfo-1-naphthalenyl)azo] strontium salt with specific X-ray diffraction data, the claims EXCLUDE and distinguish the CAS Registry compound. The ordered molecular structure of the compound of claim 1 provides the advantageous color properties discussed below. The physical structure is attributable to making the claimed compound using at least one of an amine surfactant and a sulfosuccinate surfactant.

The difference in physical properties is demonstrated in the Table of the Rule 132 Declaration. Chroma refers to brightness and color intensity. The higher the Chroma value, the brighter and more intense the pigment. The higher Chroma value of the claimed compound indicates that it is markedly brighter and intense compared to the CAS Registry Database compound. The higher the K/S value, the stronger the pigment. The higher K/S values of the claimed compound indicates that it is markedly stronger compared to the CAS Registry Database compound.

Since the compound of claim 1 is different from and novel over the CAS Registry compound as demonstrated by the Rule 132 Declaration, the CAS Registry compound does NOT anticipate the compound of claim 1 for this additional reason.

The FDA Docket No. Novelty Rejection

Claims 1, 2 16, and 17 have been rejected under 35 U.S.C. § 102(b) over FDA Docket No. 99F-2080. FDA Docket No. 99F-2080 describes a solution of two compounds, one of which is CAS Registry Database compound #250639-69-1 otherwise known as 1-naphthalenesulfonic acid, 2-[(2-hydroxy-6-sulfo-1-naphthalenyl)azo] strontium salt.

To establish anticipation, each and every claim feature must be disclosed in a single cited art document. Claims 1, 2 16, and 17 require a compound that exhibits an X-ray diffraction pattern comprising high diffraction intensities at diffraction angles of about 10.4°, about 17.5°, about 18.7°, about 21.6° and about 23°; moderate diffraction intensities at about 14.4°, about 15°, about 24.4°, about 24.8°, about 25.2° and about 26.2°; and low diffraction intensities at about 15.4°, about 17.5°, about 17.8°, about 19.3°, about 20°, about 21°, about 21.8°, about 26.6°, about 28.6°, about 30.2°, about 31.6°, about 32.1°, about 34.8° and about 38°. The FDA Docket No. 99F-2080 fails to disclose a compound that exhibits an X-ray diffraction pattern comprising high diffraction intensities at diffraction angles of about 10.4°, about 17.5°, about 18.7°, about 21.6° and about 23°; moderate diffraction intensities at about 14.4°, about 15°, about 24.4°, about 24.8°, about 25.2° and about 26.2°; and low diffraction intensities at

about 15.4°, about 17.5°, about 17.8°, about 19.3°, about 20°, about 21°, about 21.8°, about 26.6°, about 28.6°, about 30.2°, about 31.6°, about 32.1°, about 34.8° and about 38°. Since the FDA Docket No. 99F-2080 compound does not disclose all of the claimed features, the FDA Docket No. 99F-2080 compound cannot anticipate claims 1, 2 16, and 17.

Further in support of this fact is an enclosed Rule 132 Declaration. The Rule 132 Declaration demonstrates that 1-naphthalenesulfonic acid, 2-[(2-hydroxy-6-sulfo-1-naphthalenyl)azo] strontium salt of FDA Docket No. 99F-2080 is clearly different from the compound of claim 1. The difference is two-fold: physical structure and physical properties.

Although the compound of claim 1 and FDA Docket No. 99F-2080 have the same chemical structure, the difference in physical structure is based on the crystal structure (or lack of crystal structure). The compound of claim 1 is a crystalline material that exhibits a characteristic X-ray diffraction data. The FDA Docket No. 99F-2080 compound is non-crystalline or poorly crystalline and does not exhibit the required and claimed X-ray diffraction data. The enclosed Rule 132 Declaration reports the X-ray diffraction data of both compounds. The difference in the X-ray diffraction data is the basis, in part, for the novelty of the claimed compound. That is, by claiming 1-naphthalenesulfonic acid, 2-[(2-hydroxy-6-sulfo-1-naphthalenyl)azo] strontium salt with specific X-ray diffraction data, the claims EXCLUDE and distinguish the FDA Docket No. 99F-2080 compound. The ordered molecular structure of the compound of claim 1 provides the advantageous color properties discussed below. The physical structure is attributable to making the claimed compound using at least one of an amine surfactant and a sulfosuccinate surfactant.

The difference in physical properties is demonstrated in the Table of the Rule 132 Declaration. Chroma refers to brightness and color intensity. The higher the Chroma value, the brighter and more intense the pigment. The higher Chroma value of the claimed compound indicates that it is markedly brighter and intense compared to the compound of FDA Docket No. 99F-2080. The higher the K/S value, the stronger

the pigment. The higher K/S values of the claimed compound indicates that it is markedly stronger compared to the compound of FDA Docket No. 99F-2080.

Since the compound of claim 1 is different from and novel over the FDA Docket No. 99F-2080 compound as demonstrated by the Rule 132 Declaration, the FDA Docket No. 99F-2080 compound does NOT anticipate the compound of claims 1, 2 16, and 17 for this additional reason.

The Obviousness Rejections

Claims 20, 23, and 26 have been rejected under 35 U.S.C. § 103(a) over CAS Registry Database compound #250639-69-1 in view of FDA Docket No. 99F-2080 and an FDA article. Claims 20, 23, and 26 have also been rejected under 35 U.S.C. § 103(a) over FDA Docket No. 99F-2080 and the FDA article. The FDA article describes various chemical compounds that may contact foods (that is, be used in food packaging materials).

As has been described above, and as reported in the Rule 132 Declaration, the pigment properties of the CAS Registry/FDA Docket No. 99F-2080 compound are relatively poor. The CAS Registry/FDA Docket No. 99F-2080 compound is clearly different from and not equivalent to the compound of claim 1. Therefore, one skilled in the art would NOT have been motivated to incorporate the compound of the CAS Registry/FDA Docket No. 99F-2080 into food packaging material. Moreover, since the cited art does not disclose, teach, or suggest the claimed compound with the specific X-ray diffraction data, one skilled in the art would not have made the novel compound of the claims, and then use it in other carrying vehicles.

Petition for Extension of Time

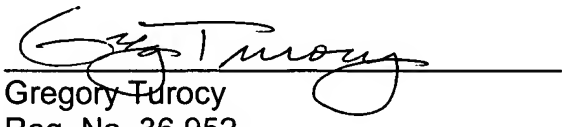
A request for a one month extension of time is hereby made. A Credit Card charge form is enclosed herewith to pay the petition fee.

Should the Examiner believe that a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact Applicants' undersigned attorney at the telephone number listed below.

In the event any fees are due in connection with the filing of this document, the Commissioner is authorized to charge those fees to our Deposit Account No. 50-1063.

Respectfully submitted,

AMIN & TUROCY, LLP



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